

RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY  
APPROVING DISPOSITION OF PARCEL 12  
IN THE GOVERNMENT CENTER PROJECT AREA

WHEREAS, on October 7 and 10, 1962, the Authority advertised for proposals for the development of Parcel 12 in accordance with the Land Disposition Policies and Procedures for Parcel 12 approved by the Authority; and

WHEREAS, pursuant to such procedures, on January 30, 1963, the Authority selected Center Associates as developer of the parcel, and approved the execution of a Letter of Intent; and

WHEREAS, such Letter of Intent was executed on February 12, 1963, pursuant to which the developer made the required security deposit and submitted preliminary and final drawings, which were approved by the Authority on April 24 and September 6th respectively; and

WHEREAS, the Authority has requested the necessary approvals and consents to the early land disposition of Parcel 12; and

WHEREAS, the early disposition and development of Parcel 12 will promote the public welfare, and will complement the public uses already approved for Parcel 5 and Parcel 6, as well as the adjacent State Office Building now under construction, by providing office space for those who customarily do much of their business with the various governmental agencies to be housed in said new public buildings; and

WHEREAS, there has been presented to this meeting of the Authority a proposed Land Disposition Agreement and Deed, setting forth the conditions under which Parcel 12 will be purchased and developed; and

WHEREAS, the proposed purchase price for said Parcel of \$12 per square foot is based upon two independent appraisals of the value of said Parcel for the proposed uses;

NOW, THEREFORE, BE IT RESOLVED BY THE BOSTON REDEVELOPMENT AUTHORITY:

1. That the procedure used for the disposition of Parcel 12 is the appropriate method of making the land available for redevelopment;
2. That the said Land Disposition Agreement and Deed for the disposition of Parcel 12 to Center Associates are in accordance with the approved Land Disposition Policies and Procedures for Parcel 12, and the Development Administrator is hereby authorized to execute such Agreement and Deed on behalf of the Authority substantially in the form presented to this meeting, subject to Housing and Home Finance Agency concurrence, and subject to receipt of the necessary approvals and consents to the early land disposition of Parcel 12.
3. That the proposed price of \$12. per square foot is hereby approved and determined to be not less than the fair value of the Parcel for the proposed uses;
4. That Center Associates possesses the qualifications and financial resources necessary to acquire and develop the land in accordance with the policies of the Authority;
5. That the Development Administrator is further authorized to grant to Center Associates such temporary construction easements in the undelivered portions of Parcel 12 and in Pemberton Square as the Development Administrator may deem appropriate.



LAND DISPOSITION AGREEMENT

FOR PARCEL 12

GOVERNMENT CENTER AREA

by and between

BOSTON REDEVELOPMENT AUTHORITY

and

CENTER ASSOCIATES

PROJECT NO. MASS. R-35

10/1/63



LAND DISPOSITION AGREEMENT

THIS AGREEMENT, made and entered into the \_\_\_\_\_ day  
of \_\_\_\_\_, 196 by and between BOSTON REDEVELOPMENT  
AUTHORITY, and CENTER ASSOCIATES.

WITNESSETH THAT the parties hereto have agreed as follows:

ARTICLE I

DEFINITIONS

SECTION 101: Defined Terms

For the purposes of this Agreement, the following  
terms shall have the meanings, respectively, ascribed to  
them below:

(a) "City" shall mean the City of Boston, Massachusetts.

(b) "Authority" shall mean the Boston Redevelopment  
Authority, a public body politic and corporate, created  
pursuant to Chapter 121, Section 2600, of the Massachusetts  
General Laws (Terr. Ed.), as amended, and shall include any  
successor in interest, whether by act of a party of this  
Agreement or by operation of law or otherwise.

(c) "Redeveloper" shall mean Center Associates, a  
joint venture having a place of business in Boston, Massachusetts  
and shall include any successor in interest or assign, whether  
by act of a party to this Agreement or by operation of law  
or otherwise, but shall not mean mortgagees or holders of  
building loan agreements. A copy of the Agreement of Association  
of Center Associates has been deposited with the Authority,  
which agreement shall not, prior to the completion of the  
improvements on The Property, be changed without the prior  
written consent of the Authority.

(d) "The Property" refers to Parcel 12 of the Government  
Center Urban Renewal Project Area, and shall mean 86,996 square  
feet of land shown on the plan attached hereto as Exhibit A,



together with easements in and under Pemberton Square and through the area shown on said plan as Parcel 12B, as hereinafter provided.

(e) "Plan" shall mean the Government Center Urban Renewal Plan duly adopted in accordance with Chapter 121 of the General Laws, as amended, and as said Plan may be amended in accordance with the provisions thereof. The "term of the Plan" shall mean a period of 40 years commencing upon the approval of the Plan by the City Council. For the purposes of this Agreement "Plan", until official adoption of the Government Center Urban Renewal Plan, shall mean the set of excerpts referred to in Section 212 hereof.

(f) "Site Plan" shall mean the drawings, sketches and plans submitted to the Authority, showing the general plan, elevations, dimensions, and character of the improvements to be erected on The Property by the Redeveloper, including the type, amount, distribution and areas of the various uses on The Property, a copy of which is attached hereto and made a part hereof as Exhibit C.

(g) "Architect" shall mean the firm of Welton Becket, FAIA, of 300 Park Avenue, New York, New York, acting pursuant to a contract for architectural services with respect to the improvements to be erected on The Property, a copy of which contract has been deposited with the Authority, which firm or contract shall not be changed without the prior written consent of the Authority in each instance, except that the Redeveloper may engage a space planner, to be approved by the Authority, to design the interiors of floors other than those at street level at Cambridge Street or Pemberton Square.

(h) "Parcel" shall mean a portion of The Property which is conveyed or to be conveyed by means of a separate deed.

(i) "Parcel A" shall mean that parcel of land shown as Parcel 12A on the plan attached hereto as Exhibit A



together with easements in and under Pemberton Square as hereinafter provided.

(j) "HHFA" shall mean the Administrator of the Housing and Home Finance Agency of the U.S., or any officer duly authorized to act in his behalf.

(k) "Final Plans and Specifications for Parcel A" shall mean the final architectural drawings and specifications for the improvements to be constructed on such Parcel, submitted to and approved by the Authority, on September 5, 1963, on file with the Authority, modified in accordance with the conditions attached to such approval.

## ARTICLE II

### TRANSFER OF THE PROPERTY AND PAYMENT THEREFOR

#### Section 201: Covenant of Sale

Subject to all the terms, covenants and conditions of this Agreement, the Authority covenants and agrees to sell and convey, and the Redeveloper covenants and agrees to purchase, The Property, provided however that The Property shall be divided into two or more Parcels, as determined by the parties, each of which such Parcel shall be conveyed by a separate deed, as hereinafter provided.

The Authority shall grant to the Redeveloper such easements in and under Pemberton Square and through the area shown as Parcel 12B on the attached Exhibit A (subject however to the last sentence of Section 205 hereof) as are required to accommodate construction in accordance with the approved Final Plans and Specifications referred to in Section 302.



Section 202: Condition of Land to be Conveyed

(a) The Authority agrees that, at the time of sale and conveyance and delivery of possession of a Parcel, it shall be free and clear of all buildings, utilities structures and improvements except street, sidewalks, and walls and foundations more than 24 inches below the surface, and all cellar-holes and excavations shall be filled to the level of the surrounding ground in a good and workmanlike manner. The excavation fill shall not contain tanks nor containers. All concrete slabs within 24 inches of the surface shall be broken and the Parcel shall be uniformly graded and left free of mounds and depressions. All indigenous material shall be removed from the Parcel except that streets, sidewalks and walls and foundations more than 24 inches below the surface and brick bats, and individual pieces of concrete not exceeding 300 pounds in maximum weight, may remain, provided they are so incorporated within the soil as to present a smooth surface. The finished surface shall be rough graded so as to conform approximately to the street elevations of the area as they now exist.

(b) The Authority agrees that it shall, without expense to the Redeveloper or public assessment against any Parcel, provide or cause to be provided the street improvements called for in the Plan, in such manner as to reasonably integrate the completion of such street improvements with the completion of improvements to be built on The Property by the Redeveloper and the public utility adjustments called for in the Plan in a timely manner so as not to impede the construction of the improvements on The Property.



Section 203:      Deposit

The Authority hereby acknowledges the receipt of an irrevocable letter of credit of the State Street Bank and Trust Company in the amount of \$103,600, dated February 12, 1963, addressed to the Authority and deposited by the Redeveloper with the Authority, as security for the performance by the Redeveloper of its obligations hereunder, as hereinafter provided.



Section 204: Purchase Price and Payment Thereof

(a) The purchase price for The Property shall be \$12 per square foot, subject to H.H.F.A. concurrence.

(b) The payment shall be in cash or certified check drawn to the order of the Authority. Upon delivery of the deed and possession of a Parcel to the Redeveloper, the Redeveloper shall pay to the Authority an amount equal to the number of square feet in the Parcel multiplied by \$12.



## Section 205: Time of Sale and Conveyance

The sale and conveyance and delivery of possession of Parcel A, and the purchase of the same by the Redeveloper, shall take place on October 18, 1963 at a closing to be held at the office of the Authority or such other place as the Authority may designate; provided, however, that the sale and conveyance and delivery of possession of such Parcel to the Redeveloper may take place at an earlier or later date upon agreement of the parties hereto and provided that final working drawings have been approved by the Authority in accordance with Section 302 hereof in such form as to permit the construction to proceed. The sale and conveyance and delivery of possession of a subsequent Parcel or Parcels and the purchase of the same by the Redeveloper, shall take place at such time or times as shall be mutually agreed upon by the Authority and the Redeveloper, provided however that sale and conveyance and delivery of possession of all Parcels shall take place on or before August 1, 1965.

At the time of transfer of title to each parcel, or immediately thereafter, the Authority shall grant to the Redeveloper such temporary construction easements in the Property (if cleared), in Parcel 12B (if cleared), and in Pemberton Square, (to the extent of its power to do so and subject to existing easements) as the Redeveloper may require to facilitate construction work. Upon final completion of all improvements to be constructed on the Property pursuant to Section 303 hereof, and the issuance of a Certificate of Completion pursuant to Section 304 hereof, the Authority shall grant to the Redeveloper a permanent easement under Pemberton Square for the area covered by the Redeveloper's construction thereunder, and a permanent easement through Parcel 12B for the area covered by the Redeveloper's construction thereunder, and a permanent easement through Parcel 12B for the area covered by the Redeveloper's



construction therein. However, if the parties hereto agree, the Authority shall, at the time of transfer of the last parcel to be conveyed hereunder, also convey Parcel 12B to the Redeveloper, in which case Parcel 12B shall be deemed to be part of the Property hereunder, and all the provisions of this Agreement relating to the Property shall apply to Parcel 12B.



Section 206: Title and Instrument of Conveyance

The sale and conveyance shall be by quitclaim deed of good and marketable fee simple title to each Parcel, free and clear of all liens and encumbrances, but subject to all conditions, covenants and restrictions set forth or referred to in this Agreement and the Plan or in either thereof and subject to easements for public travel along Cambridge Street and through the Property, as indicated on the approved Final Plans and Specifications referred to in Section 302. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring title to any Parcel from the Authority to the Redeveloper, and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.



Section 207: Federal Tax Stamps and Other Closing Costs

The Redeveloper shall pay the cost of any State and Federal documentary tax stamps which may be required and all other closing costs, including the cost of recording this Agreement if such recording is requested by the Authority.



Section 208: Adjustments

With respect to any tax period during which the Authority and the Redeveloper both had title to and possession of any Parcel, taxes allocable to such Parcel for such period shall be prorated between the Authority and the Redeveloper in proportion to the respective periods of ownership of title and possession by (1) the Authority and its predecessors in title on the one hand, and (2) the Redeveloper on the other hand; provided, in no event shall the Redeveloper be liable for any taxes levied on any improvements located on any Parcel on any assessment date prior to the transfer to the Redeveloper of title to and possession of such Parcel.

In the event any Parcel is exempt from taxation on the assessment date next preceding the transfer of title and possession by virtue of title being vested in the Authority or other tax exempt entity, the Redeveloper shall pay to the Authority, in lieu of a tax adjustment, a pro rata amount of the taxes which would have been payable to the City of Boston if such Parcel had not then been exempt from taxation, for that portion of the tax year during which the Redeveloper has title and possession, such amount to be paid by the Authority to the City upon receipt from the Redeveloper; provided, in no event shall the Redeveloper be liable for any taxes or payment in lieu of taxes for any improvements located on any Parcel on any assessment date prior to the transfer to the Redeveloper of title to and possession of such Parcel.

Any payment owned by the Redeveloper under this Section shall be due and payable to the Authority at the time of closing set forth in Section 205 hereof.



Section 209: Application of Redeveloper's Deposit

(a) Upon the sale and conveyance and delivery of possession of Parcel A as set forth in Section 205 hereof, the deposit made by the Redeveloper with the Authority in accordance with Section 203 hereof shall be reduced to an amount equal to 10 percent of the aggregate purchase price of the remaining Parcels, in the following manner: Upon such sale and conveyance and delivery, the Redeveloper shall deliver to the Authority an irrevocable Letter of Credit in the approved form and in the appropriate amount, (hereinafter called "Letter of Credit No. 2") upon the receipt of which the Authority shall return to the Redeveloper the Letter of Credit referred to in Section 203. Thereafter, Letter of Credit No. 2 shall be held by the Authority as security for the obligations of the Redeveloper hereunder, as hereinafter provided.

(b) Upon the sale and conveyance and delivery of possession of a subsequent Parcel in accordance with Section 205 hereof, the deposit made by the Redeveloper with the Authority in accordance with Section 203 hereof (as reduced in accordance with this section) shall be further reduced to an amount equal to 10 percent of the aggregate purchase price of the remaining undelivered Parcels, if any, (but only if the deposit has not been retained by the Authority pursuant to Sections 801 or 802 hereof).

(c) Upon the sale and conveyance and delivery of possession of the last Parcel to be conveyed pursuant to this Agreement, the irrevocable Letter of Credit then held by the Authority shall be surrendered to the Redeveloper.



Section 210: Conditions Precedent to Conveyance

The Authority shall not be obligated to make conveyance of any Parcel unless and until the following events have all occurred:

(a) Final plans and specifications for such Parcel have been submitted by the Redeveloper and approved by the Authority as provided in Section 302 hereof;

(b) The Redeveloper and a responsible contracting firm have entered into a contract, satisfactory in form to the Authority, for the construction of the improvements on such Parcel, and has deposited a copy of this contract with the Authority, which firm shall not be changed without the prior written consent of the Authority.

(c) The Redeveloper has furnished the Authority with a faithful performance surety bond satisfactory in form to the Authority with the construction contractor as principal and the Redeveloper, the Lender and the Authority as beneficiaries. The penal amount of this bond shall not be less than 10 per cent of the amount of the aforesaid construction contract.

(d) The Redeveloper has furnished evidence satisfactory to the Authority that the Redeveloper has the equity capital and commitments for mortgage financing adequate for the construction of the improvements in accordance with said approved final plans and specifications and the construction contract.



Section 211: Default by Authority

(a) In the event that the Authority shall be unable to give title or to make conveyance or to deliver possession of Parcel A as provided for herein, (except in the eventuality referred to in Section 212 hereof) then with respect to that Parcel and any subsequent Parcels, (1) the Authority shall promptly return to the Redeveloper the irrevocable Letter of Credit held by it pursuant to Section 203 hereof; (2) all other obligations of the parties hereunder shall cease; and (3) this Agreement shall be void and without recourse to the parties hereto, unless the Authority shall elect to use reasonable efforts to remove any defect in title or to deliver possession as herein agreed, as the case may be, in which event the Authority shall give written notice thereof to the Redeveloper at or before the time for performance by the Authority hereunder, and thereupon the time for the performance by the Authority shall be extended for a period of ninety (90) days, or such longer period as the Authority and the Redeveloper shall mutually agree; provided, however, that the Redeveloper shall have the election, either at the original or any extended time for performance, to accept such title as the Authority can deliver to such Parcel (if then cleared) and to pay therefor without deduction, in which case the Authority shall convey such title to the Redeveloper. In the event that at the expiration of the extended time the Authority shall be unable to give title or to make conveyance or to deliver possession as herein provided, then, with respect to that Parcel and any subsequent Parcels, (1) The Authority shall promptly return to the Redeveloper the irrevocable Letter of Credit held by it pursuant to Section 203 hereof; (2) all other obligations of the parties hereto shall cease; and (3) this Agreement



shall be void and without recourse to the parties hereto.

The acceptance of a deed by the Redeveloper shall be deemed a full performance and discharge of every agreement and obligation herein contained with respect to the Parcel covered by such deed, except such as are, by the express terms hereof, to be performed after the delivery of the deed.

(b) In the event that after transfer to title of any one or more Parcels, the Authority shall be unable to give title or make conveyance or to deliver possession of any other Parcel as provided for herein, (except for the eventuality referred to in Section 212 hereof) then with respect to that Parcel and any other undelivered Parcels:

- (1) the Authority shall return the deposit then held by it to the Redeveloper (but only if the deposit has not been retained by the Authority pursuant to Sections 801 or 802 herein);
- (2) all other obligations of the parties hereof with respect to such undelivered Parcels shall cease; and
- (3) this Agreement, insofar as it relates to such undelivered Parcels, shall be void and without recourse to the parties hereunder, unless the Authority shall elect to use reasonable efforts to remove any defect in title or to deliver possession as herein agreed, as the case may be, in which case the Authority shall give written notice thereof to the Redeveloper at or before the time for performance by the Authority hereunder, and thereupon the time for performance by the Authority shall be extended for a period of ninety (90) days or such longer period as the Authority and the Redeveloper shall mutually agree; provided, however, that the Redeveloper shall have the election, either at the original or any extended time for performance, to accept such title as the Authority can deliver to such Parcel (if then cleared) and to pay therefore without deduction, in which



case the Authority shall convey such title to the Redeveloper. In the event that at the expiration of the extended time the Authority shall be unable to give title or to make conveyance or to deliver possession as herein provided, then, with respect to that Parcel and any other undelivered Parcels: (1) the Authority shall return the deposit then held by it to the Redeveloper (but only if the deposit has not been retained by the Authority pursuant to Sections 801 and 802 hereof); (2) all other obligations of the parties hereunder with respect to such undelivered Parcels shall cease; and (3) this Agreement insofar as it relates to such undelivered Parcels shall be void and without recourse to the parties hereto.

Notwithstanding any other provision of this Agreement, until all Parcels to be conveyed under this Agreement have been conveyed to the Redeveloper, the deposit held by the Authority shall at no time amount to less than 10 per cent of the aggregate purchase of the Parcels still to be conveyed by the Authority to the Redeveloper.



Section 212: Adoption of Urban Renewal Plan

Attached to this Agreement as Exhibit B is a set of excerpts from an Urban Renewal Plan for Government Center dated April 3, 1963, (revised May 29, 1963), approved by the Authority June 5, 1963, which set of excerpts has been delivered to the Redeveloper and meets with the Redeveloper's approval. The Authority intends to submit for local approvals in accordance with said Chapter 121 said Urban Renewal Plan, including said excerpts. However, in the event that prior to transfer of title to any Parcel under this Agreement, an Urban Renewal Plan is adopted in accordance with said Chapter 121, which contains substantive changes which affect Parcel 12, the Redeveloper, within ten (10) days after receipt of such Plan or notice of such changes by the Authority may request that this Agreement be terminated. Promptly upon receipt of such a request, (1) the Authority shall return to the Redeveloper the deposit referred to in Section 203 hereof; (2) all other obligations of the parties hereunder shall cease; and (3) this Agreement shall be void and without recourse to the parties hereto.

In the event that, by the date set forth in the first sentence of Section 205 hereof, an Urban Renewal Plan for the Government Center Area has not been duly adopted in accordance with Chapter 121 of the General Laws, the Authority shall use its best efforts to obtain the necessary city, state, and federal approvals in order to convey title to The Property to the Redeveloper, subject to the set of excerpts attached hereto as Exhibit B; and if the Authority obtains such approvals no later than January 30, 1964, the Redeveloper agrees to accept title subject to such excerpts, except that, upon the due adoption of the Government Center Urban Renewal Plan, in accordance with the said Chapter 121 and with no substantive changes affecting The Property (except such as may be acceptable to the Redeveloper) the said Urban Renewal Plan shall supersede said excerpts ( and any deed conveying title pursuant to this Section shall so provide).

### ARTICLE III

#### RESTRICTIONS AND CONTROLS UPON REDEVELOPMENT

##### Section 301: Redevelopment Pursuant to Plan

(a) The Redeveloper, for itself and its successors and assigns, covenants, promises and agrees:

- (1) to devote The Property to the uses specified in the Plan;
- (2) not to use or devote The Property or any part thereof for any use other than the uses or purposes specified in the Plan, or contrary to any of the applicable limitations or requirements of the Plan;
- (3) to give preference in the leasing of space in the buildings to be constructed on The Property to former occupants of the Government Center Project Area, to the maximum extent practicable;
- (4) not to effect or execute any covenant, agreement, lease, conveyance or other instrument whereby The Property or any improvement thereon is restricted, upon the basis of race, religion, creed, color, or national origin or ancestry in the sale, lease or occupancy thereof;
- (5) not to discriminate upon the basis of race, creed, color, or national origin in the sale, lease, or rental or in the use or occupancy of the Property, or any improvements erected or to be erected thereon, or any part thereof;
- (6) to comply with all State and local laws, in effect from time to time, forbidding



discrimination or segregation by reason of race, religion, color or national origin in the sale, lease or occupancy thereof.

(b) The covenants in subsection (a) of this Section shall be covenants running with the land, and covenants to the same effect shall be contained in any instruments from the Authority to the Redeveloper or to its successors or assigns and in any instruments from the Redeveloper, its successors and assigns, conveying The Property or any part thereof or interest therein and shall be expressed therein to be covenants running with the land.

(c) The covenants in subdivisions (1), (2), and (3) of subsection (a) of this Section, and the covenants to the same effect which shall be contained in any instrument or instruments in accordance with the provisions of subsection (b) of this Section, and all rights and obligations under any of said covenants, shall terminate upon the expiration of the term of the Plan; and the covenants in subdivisions (4), (5), and (6) and the covenants to the same effect which shall be contained in any instrument or instruments in accordance with the provisions of subsection (b), and all rights and obligations under any of said covenants, shall terminate upon the expiration of one hundred (100) years from the date of the deed of Parcel A from the Authority to the Redeveloper; provided, however, that the provisions of this subsection shall not abate, or be a ground for abatement of, any action, suit, or other legal proceeding instituted prior to the termination of the covenants.

Section 302: Improvements and Submissions of Plans

(a) The Property shall be used for the construction of an office building to contain approximately 600,000 square feet plus related facilities in and under Pemberton Square.

(b) Parcel A shall be used for construction of an office building to contain approximately 200,000 square feet plus related facilities in and under Pemberton Square.

(c) No later than twenty (20) days prior to the date scheduled for the conveyance of Parcel A, the Redeveloper shall submit to the Authority, for review and approval by the Authority, evidence satisfactory to the Authority that the Redeveloper has the equity capital and commitments for mortgage financing necessary for the construction of the proposed improvements.

(d) Within four months after delivery of the deed and possession of Parcel A to the Redeveloper, the Redeveloper shall submit to the Authority preliminary plans and outline specifications prepared by the Architect, for all of the improvements to be constructed on the second Parcel, in accordance with the Site Plan, the Plan, and this Agreement, including such elevations and perspectives as may be necessary to show the architectural character of the improvements and their relationship to the improvements to be constructed on Parcel A. The preliminary plans and outline specifications for the second Parcel may be limited to materials showing variations from the preliminary plans and outline specifications for Parcel A, and if no such variations exist, no preliminary plans and outline specifications need be submitted, provided that Redeveloper so notifies the Authority within two months after delivery of the deed and possession of Parcel A.

The Authority shall review such preliminary plans and outline specifications for conformity with the Site Plan, the Plan, and this Agreement, and shall promptly notify the Redeveloper of its approval



or disapproval in writing, setting forth in detail any grounds for disapproval. If no grounds of disapproval are delivered in writing to the Redeveloper within thirty (30) days after the submission of the preliminary plans and outline specifications, or any resubmission thereof as hereinafter provided, such plans and specifications shall be deemed approved.

In the event of a disapproval, the Redeveloper shall, within thirty (30) days after the date the Redeveloper receives the written notice of such disapproval, resubmit the preliminary plans and outline specifications altered to meet the grounds of disapproval. The resubmission shall be subject to the review and approval of the Authority in accordance with the procedures hereinabove provided for an original submission, until preliminary plans and outline specifications shall be approved by the Authority; provided however that the Redeveloper shall submit preliminary plans and outline specifications which meet the requirements of this subsection and the approval of the Authority within six (6) months after conveyance of Parcel A.

As promptly as possible after the preliminary plans and outline specifications are approved, or deemed approved by the Authority, the Redeveloper shall submit to the Authority for review and approval by the Authority evidence satisfactory to the Authority that the Redeveloper will have the equity capital and commitments for mortgage financing necessary for the construction of the proposed improvements.

Within one hundred twenty (120) days after the preliminary plans and outline specifications are approved or deemed approved by the Authority the Redeveloper shall submit to the Authority final plans and specifications prepared by the Architect and in accordance with the previously approved preliminary plans and outline specifications, the Site Plan, the Plan, and this Agreement.

The Authority shall review the final plans and specifications for conformity with the preliminary plans and outline specifications, the Site Plan, the Plan, and this Agreement, and shall promptly notify the Redeveloper of its approval or disapproval in writing, setting forth in detail any grounds for disapproval. If no grounds of disapproval are delivered in writing to the Redeveloper within ten (10) days after the submission of the final plans and specifications, or any resubmission thereof as hereinafter provided, such plans and specifications shall be deemed approved.

In the event of a disapproval, the Redeveloper shall, within ten (10) days after the date the Redeveloper receives the written notice of such disapproval, resubmit the final plans and specifications altered to meet the grounds of disapproval. The resubmission shall be subject to the review and approval of the Authority in accordance with the procedure hereinabove provided for an original submission, until final plans and specifications shall be approved by the Authority; provided, however, that the Redeveloper shall submit final plans and specifications which meet the requirements of this subsection and the approval of the Authority within five (5) months after approval of the preliminary plans and outline specifications.

As promptly as possible after the final plans and specifications are approved or deemed approved by the Authority and in any event within twenty (20) days thereafter, the Redeveloper shall submit to the Authority for review and approval by the Authority evidence satisfactory to the Authority that the Redeveloper has the equity capital and commitments for mortgage financing necessary for the construction of the improvements in accordance with said approved plans and specifications.

(e) If the property has been divided into more than two Parcels in accordance with Section 201 hereof, submission and



approval requirements shall generally follow the procedure set forth in subsection (d) hereof; provided however that the Authority may in its discretion extend the time limits set forth therein.

(f) The Redeveloper shall not apply for a building permit for the construction of the improvements to be erected on any Parcel without the prior certification of the Authority that the work to be done or completed is in accordance with the final plans and specifications approved by the Authority in accordance with the provisions of this Agreement. No work shall be done on the construction of the improvements to be erected on any Parcel if such work deviates from the approved final plans and specifications in any of the following respects: (a) if the external appearance of the building (including roof and penthouse) is affected in any way; (b) if there are significant changes in materials or design of the interiors; (c) if there are significant changes in materials, design, dimensions, or color in the public lobbies, entrances, or arcades; except and only to the extent that modifications thereof have been requested by the Redeveloper in writing and have been approved in writing by the Authority. In the event that Redeveloper shall fail to comply with the foregoing requirements, the Authority, within a reasonable time after discovery thereof by the Authority, direct in writing that the Redeveloper so modify or reconstruct such portion or portions of the improvements erected or being erected on The Property as so deviate from the approved final plans and specifications or any approved modifications thereof, as to bring them into conformance therewith. The Redeveloper shall promptly comply with such a directive, and shall not proceed further with construction of such portion of the improvements as are the subject of such a directive until such directive is complied with. Any delays in completion of the improvements resulting from such modification or reconstruction shall not be a ground for the

extension of the time limits of construction on The Property as provided for in Section 303 of this Agreement.

(g) In submitting plans and specifications to the Authority for its approval, the Redeveloper shall consider and take into account the planning and design objectives set forth in the Plan, and the Authority shall pursue such objectives in its review of and action upon the plans and specifications so submitted.



Section 303: Time for Commencement and Completion of Construction

(a) The Redeveloper shall begin the construction of the improvements on each Parcel in accordance with the approved final plans and specifications within fifteen (15) days after delivery of the deed to and possession of such Parcel to the Redeveloper.

(b) The Redeveloper shall diligently prosecute to completion the construction of the improvements on each Parcel and shall, in any event, complete such construction not later than twenty-four (24) months after the commencement thereof, including the grading and planting of Pemberton Square in accordance with the approved final plans and specifications.

(c) Subsequent to the execution of this Agreement and until the construction of the improvements has been completed, the Redeveloper shall make, in such detail as may reasonably be required by the Authority, a report in writing to the Authority every three (3) months as to the actual progress of the Redeveloper with respect to such construction. After the sale and conveyance and delivery of possession of a Parcel to the Redeveloper and during the period of construction, the work of the Redeveloper shall be subject to inspection by representatives of the Authority, of the City and of the United States of America.

(d) Prior to the sale and conveyance and delivery of possession of a Parcel, the Authority shall permit the Redeveloper access thereto, whenever and to the extent necessary to carry out the purposes of this Agreement.

(e) It is intended and agreed that the agreements and covenants contained in this Section 303 with respect to the beginning and completion of the improvements on The Property shall be covenants running with the land, and

covenants to the same effect shall be contained in any instruments from the Authority to the Redeveloper or to its successors or assigns of The Property or any part thereof or interest therein, and in any instruments from the Redeveloper, or such successors and assigns, conveying The Property or any part thereof or interest therein and shall be expressed therein to be covenants running with the land.



Section 304: When Improvements Completed

The building of improvements on The Property shall be deemed completed for the purposes of this Agreement when the improvements required of the Redeveloper by the provisions of this Agreement have been built and are substantially ready for occupancy and shall incontestably be deemed completed for the purposes of this Agreement upon the issuance of a Certificate of Completion by the Authority.

Section 305: Prompt Payment of Obligations

The Redeveloper shall make, or cause to be made, prompt payment of all money due and legally owing to all persons, firms and corporations doing any work, furnishing any materials or supplies or renting any equipment to the Redeveloper in connection with the development, construction, furnishing, repair or reconstruction of any of the improvements required by this Agreement to be constructed upon The Property, and the Redeveloper shall include in any contract in connection with such development, construction, furnishing, repair or reconstruction, provisions requiring the prompt payment of all such monies due and legally owing.



Section 306: Access to The Property by Authority, City  
and Federal Personnel

To the extent of its authority to do so, the Redeveloper, its successors and assigns, shall from time to time until the expiration of the term of the Plan, at all reasonable hours, give to the duly authorized representatives of the Authority, the City and the United States of America free and unobstructed access for inspection purposes to any and all of the improvements constructed on The Property by the Redeveloper, its successors and assigns, and to all open areas surrounding the same.

Section 307. Non-Discrimination in Employment

The Redeveloper, for itself, and its successors and assigns, agrees that in the construction of the Improvements in accordance with the provisions of this Agreement:

(a) The Redeveloper will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Redeveloper will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

(b) The Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of the Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

(c) The Redeveloper will send to each labor union or representative of workers with which the Redeveloper has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Agency, advising the said labor union or workers' representative of the Redeveloper's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Redeveloper will comply with all provisions of Executive Order No. 10925 of March 6, 1961, as amended, and of the rules, regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.



(e) The Redeveloper will furnish all information and reports required by Executive Order No. 10925 of March 6, 1961, as amended, and by the rules, regulations, and orders of the said Committee, or pursuant thereto, and will permit access to the Redeveloper's books, records, and accounts by the Agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Redeveloper's noncompliance with the nondiscrimination clauses of this Section, or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Redeveloper may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order No. 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

(g) The Redeveloper will include the provisions of Paragraphs (a) through (g) of this Section in every contract or purchase order, and will require the inclusion of these provisions in every subcontract entered into by any of its contractors, unless exempted by rules, regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to Section 303 of Executive Order No. 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each such contractor, subcontractor, or vendor, as the case may be. The Redeveloper will take such action with respect to any construction contract, subcontract, or purchase order as the Agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Redeveloper becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Agency, the Redeveloper may request the United States to enter into such

litigation to protect the interests of the United States. For the purpose of including such provisions in any construction contract, subcontract, or purchase order, as required hereby, the term "Redeveloper" and the term "Agency" may be changed to reflect appropriately the name or designation of the parties to such contract, subcontract, or purchase order.



## ARTICLE IV

### TRANSFER AND MORTGAGE OF REDEVELOPER'S INTEREST

#### Section 401: General Terms Relating to Transfer of Interest in Property by Redeveloper

(a) Prior to the completion of the construction of the improvements on The Property in accordance with Section 304 of this Agreement, no party owning ten (10%) per cent or more of the proprietary interest in the Redeveloper (which term shall be deemed to include successors and assigns of such interest) shall make any transfer, or cause or suffer any transfer to be made, of any such proprietary interest or any interest therein without the written approval of the Authority; nor without such approval, shall there be any other similarly significant change in the ownership of such interests or in the relative distribution thereof or in the control of the Redeveloper or degree thereof, by any other methods or means. The Redeveloper shall keep the Authority furnished with an up-to-date list of owners of proprietary interests in the Redeveloper setting forth the amount of interests held by each such owner.

(b) The Redeveloper agrees that it will not, prior to the completion of the construction of the improvements on The Property, make, or suffer to be made, any assignment or any manner of transfer of its interest in The Property or portion thereof or in this Agreement, other than a contract or agreement to be performed subsequent to such completion, except as provided in subsection (c) of this Section 401.

(c) Notwithstanding the provisions of subsection (b) of this Section 401, an assignment or transfer of the Redeveloper's interest in The Property or any portion thereof or in this Agreement may be made prior to the completion of the construction of the improvements thereon upon compliance with the following:

(1) The transferee or transferees shall have been approved as such, in writing, by the Authority.

(2) The transferee or transferees, by valid instrument in writing, satisfactory to the Authority, shall have expressly assumed, for themselves and their successors and assigns and directly to and for the benefit of the Authority, all obligations of any person or persons, including the Redeveloper, to begin and complete the building of the improvements and all obligations of the Redeveloper provided for in this Agreement including the obligations of performance in accordance with the Plan, provided, that the fact that any transferee of, or any other successor in interest whatsoever to, The Property or any part thereof, shall, whatever the reason, not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority) relieve or except such transferee or successor of or from such obligations, conditions, or restrictions, or deprive or limit the Authority of or with respect to any rights or limitations or controls with respect to The Property or the construction of the improvements; it being the intent of this, together with other provisions of this Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership shall operate, legally or practically, to deprive or limit the Authority of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with



Section 403: Rights and Duties of Mortgagee upon Acquisition  
Prior to Completion

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(a) If a mortgagee, through the operation of its contract to finance the improvements required by this Agreement to be constructed by the Redeveloper on The Property, acquires fee simple title to The Property or any Parcel thereof prior to the completion of such improvements, the mortgagee shall, at its option:

(1) complete construction of such improvements in accordance with the approved, final plans and specifications, the Site Plan, the Plan and this Agreement and in all respects comply with the provisions of this Agreement, or

(2) sell, assign or transfer, with the prior written consent of the Authority, fee simple title to The Property or Parcel to a purchaser, assignee or transferee who shall expressly assume all of the covenants, agreements and obligations of the Redeveloper under this Agreement in respect to The Property or Parcel, by written instrument satisfactory to the Authority and recorded forthwith in the Suffolk County Registry of Deeds, or

(3) reconvey fee simple title to The Property or Parcel to the Authority, subject to the provisions of Section 802 of this Agreement, in which event the provisions of Section 802 relative to resale shall apply.

Section 404: Rights and Duties of Mortgagee upon Acquisition  
After Completion

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If a mortgagee, through the operation of its contract to finance the improvements required by this Agreement to be constructed by the Redeveloper on The Property, acquires the mortgage or fee simple title to The Property or any Parcel thereof after completion of such improvements, the mortgagee, shall comply with the applicable provisions of this Agreement.



## ARTICLE V

### PROVISIONS RELATING TO OPERATION AND MAINTENANCE

#### Section 501: Maintenance and Operation of Improvements

The Redeveloper shall, at all times until the expiration of the term of the Plan, keep the improvements constructed on The Property in good and safe condition and repair, and, in the occupancy, maintenance and operation of such improvements and The Property, comply with all laws, ordinances, codes and regulations applicable thereto.

Section 502: Additions or Subtractions to Completed Improvements

After the improvements required by the Plan and this Agreement to be constructed by the Redeveloper on The Property, or any portion thereof, have been completed, the Redeveloper shall not, until the expiration of the term of the Plan, reconstruct, demolish or subtract therefrom or make any additions thereto or extensions thereof, without the prior written approval of the Authority, which approval shall not be unreasonably withheld. In the event the Redeveloper shall fail to comply with the foregoing requirement, the Authority may within a reasonable time after discovery thereof by the Authority direct in writing that the Redeveloper so modify, reconstruct or remove such portion or portions of the improvements as were reconstructed, demolished or subtracted from or added to or extended without the prior written approval of the Authority. The Redeveloper shall promptly comply with such a directive, and shall not proceed further with such reconstruction, demolition, subtraction, addition or extension until such directive is complied with.



ARTICLE VI

INDEMNIFICATION

Section 601: Reimbursement of Authority in Respect of  
Certain Litigation

The Redeveloper shall pay all reasonable costs and expenses, and the amounts of all judgments and decrees, which may be incurred by the Authority in proceedings brought to enforce compliance with the provisions of this Agreement, to the extent the Authority prevails. It is expressly understood, however, that the mortgagee under any mortgage permitted hereunder shall not be liable to the Authority for any costs, expenses, judgments, decrees or damages which shall have accrued against the Redeveloper, whether or not the mortgagee shall subsequently acquire title to The Property.

## ARTICLE VII

### INSURANCE

#### Section 701: Insurance Coverage

(a) The Redeveloper shall, until the expiration of the term of the Plan, keep all of the insurable property and equipment in respect of The Property insured by fire and extended coverage insurance and insured against such additional risks with respect to which insurance is commonly carried on similar property and equipment in the City. Such insurance shall be in amounts sufficient to comply with the co-insurance clause applicable to the location and character of the property or equipment, and, in any event, in amounts not less than eighty per centum (or eight per centum in the case of extended coverage insurance) of the current cash value of such property or equipment. All such insurance shall be by standard policies, obtained from financially sound and responsible insurance companies authorized to do business in Massachusetts, and shall have attached thereto a clause making the loss payable to the Redeveloper, the mortgagee and (subject to the rights of the mortgagee) the Authority, as their respective interests may appear.

(b) Each insurance policy shall be written to become effective at the time the Redeveloper becomes subject to the risk or hazard covered thereby, and shall be continued in full force and effect for such period as the Redeveloper is subject to such risk or hazard.

(c) Certificates of such policies and renewals, shall be filed with the Authority.



Section 702: Non-cancellation Clause

All insurance policies shall provide that any cancellation or termination thereof shall not be effective with respect to the Authority until after at least fifteen (15) days' prior notice has been given to the Authority to the effect that such insurance policies are to be cancelled or terminated at a particular time.

Section 703: Authority May Procure Insurance if Redeveloper  
Fails to Do So

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In the event the Redeveloper at any time refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required pursuant to this Agreement, the Authority, at its option, may procure or renew such insurance, and all amounts of money paid therefor by the Authority shall be payable by the Redeveloper to the Authority; with interest thereon at the rate of six per centum (6%) per annum from the date the same were paid by the Authority to the date of payment thereof by the Redeveloper. The Authority shall notify the Redeveloper in writing of the date, purposes, and amounts of any such payments made by it.



Section 704: Redeveloper's Obligations with Respect to  
Restoration and Reconstruction

(a) Whenever any improvement, or any part thereof, constructed on The Property shall have been damaged or destroyed prior to the expiration of the term of the Plan, the Redeveloper shall proceed promptly to establish and collect all valid claims which may have arisen against insurers or others based upon any such damage or destruction. All proceeds of any such claims and any other monies provided for the reconstruction, restoration or repair of any such improvement, shall be deposited in a separate account.

(b) The insurance money and any other proceeds so collected shall be used and expended for the purpose of fully repairing or reconstructing the improvements which have been destroyed or damaged to a condition at least comparable to that existing at the time of such damage or destruction to the extent that such insurance money and other proceeds may permit. If there be any excess proceeds after such repair or reconstruction has been fully completed, such excess shall be retained by the Redeveloper.

(c) The Redeveloper, with the written approval of the Authority and the mortgagee, may determine that all or any part of any such damage to or destruction of such improvements shall not be reconstructed, restored, or repaired, and in such event, the proceeds of any claims against insurers or others arising out of such damage or destruction, to the extent not used for such reconstruction, restoration, or repair shall be retained by the Redeveloper.

Section 705: Commencement and Completion of Reconstruction

The Redeveloper shall commence to reconstruct or repair any improvements and equipment on The Property, or any portion thereof, which have been destroyed or damaged prior to the expiration of the term of the Plan, within a period not to exceed six (6) months after the insurance or other proceeds in respect of such destroyed or damaged property have been received by the Redeveloper (or, if the conditions then prevailing require a longer period, such longer period as the Authority may specify in writing), and shall well and diligently and with prompt dispatch prosecute such reconstruction or repair to completion, and in any event, to completion within twenty-four (24) months after the start thereof.



## ARTICLE VIII

### RIGHTS, REMEDIES, AND PROCEDURES IN THE EVENT OF A BREACH BY REDEVELOPER

#### Section 801: Failure or Refusal by Redeveloper to Purchase Fee Simple Title and Possession

In the event that the Redeveloper shall fail or refuse to submit preliminary plans and outline specifications or final working plans and specifications as provided in Section 302 of this Agreement, or shall fail or refuse to submit evidence that it has the necessary equity capital and commitments for mortgage financing as provided in Section 210, or shall (other than as provided in Section 211 or 212 of this Agreement) fail or refuse to complete the purchase and accept possession of any Parcel as set forth in Section 205 of this Agreement, the Authority shall have the right to redeem the Letter of Credit then held by it and to retain the full amount received as full liquidated damages, but not as a penalty, without any deduction or offset whatever and without further liability to the Authority on the part of the Redeveloper; and the Authority may, upon such failure or refusal, in its sole discretion terminate, by written notice to the Redeveloper, all of its obligations to the Redeveloper hereunder, in addition to retaining such deposit.

Section 802: Consequences of Breach by Redeveloper With Respect to Commencement and Completion of Construction, Failure to Pay Taxes or Discharge Encumbrances, or Unauthorized Transfers of Interest

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In the event that, prior to completion of the improvements:

- (1) the Redeveloper shall fail to perform its obligations under this agreement with respect to commencement or completion of construction of improvements;
- (2) the Redeveloper shall fail to pay any real estate taxes or assessments on the Property or any part thereof when due, or shall place thereon any encumbrances or liens unauthorized by this agreement; or
- (3) there is in violation of this agreement any transfer of the Property or any part thereof, or any change in the ownership or distribution of the proprietary interests in the Redeveloper or with respect to the identity of the parties in control of the Redeveloper or degree thereof;

the Authority shall in writing notify the Redeveloper of such failure or violation. The Redeveloper shall thereupon have ninety (90) days from the receipt by it of such written notice to cure such failure or violation. If the Redeveloper does not cure such failure or violation within the 90-day period (or within such extended period of time as may be established by the Authority acting solely in its discretion) and if the holders of record of building loan agreements and/or first mortgages in replacement thereof do not exercise their rights to cure such violation or failure (as provided in Section 804 hereof), the Redeveloper shall promptly transfer possession of, and reconvey, all Parcels owned by it, together with all of the improvements thereon, to the Authority without cost to the Authority, by quitclaim deed but subject to any existing building loan agreements and mortgages thereon



permitted under this Agreement. In the event of such failure to cure, the Authority shall also have the right to redeem the Letter of Credit then held by it and to retain the amount received, without any deduction, offset or recoupment whatsoever, and to enforce its rights under the surety bond referred to in Section 210. In the event that the Redeveloper shall fail so to reconvey, the Authority may institute such actions or proceedings as it may deem advisable as well as proceedings to compel specific performance and the payment of all damages, expenses and costs.

In the event that the Redeveloper or a mortgagee reconveys to the Authority pursuant to this Section 802 or Section 403, the Authority shall undertake with due diligence to resell the Property so reconveyed and the improvements thereon, subject to all of the provisions of the Plan; and the proceeds of such resale shall be used:

first to reimburse the Authority for all costs and expenses incurred by the Authority, including the salaries of Authority personnel in connection with the recapture, management and resale of the Property and all administrative and overhead costs in connection therewith; all taxes, payments in lieu of taxes, public charges and other sums owing to the City or the Authority with respect to the Property up to the time of such resale; any payments made to discharge any encumbrances or liens existing or threatened on the Property; any expenditures made or obligations incurred with respect to the making or completion of improvements on the Property; and any amounts otherwise owing to the Authority from the Redeveloper; and

the balance of such proceeds, if any, shall be used to reimburse the Redeveloper for and up to the amount expended by it in the purchase and improvement of the Property, (but not including the deposit referred to in Section 203 hereof) less any profit theretofore realized by the Redeveloper from the disposition of any interest in the Property. Any balance remaining after reimbursement to the Redeveloper shall remain the property of the Authority.

In the event of a failure to cure under this Section, the Authority shall have the right to re-enter for breach of condition subsequent.

In addition to the other remedies hereinabove provided in this Section 802, upon such failure by the Redeveloper to cure under this Section, the Authority may in its sole discretion terminate, by written notice to the Redeveloper, any or all of its obligations to the Redeveloper hereunder.

Section 803: Notice of Breaches to Mortgagees

In the event that the Authority, pursuant to Section 802 of this Agreement gives written notice to the Redeveloper of a failure or violation under this Section, the Authority shall forthwith furnish a copy of the notice to each of the mortgagees of record of The Property permitted under this Agreement. To facilitate the operation of this Section, the Redeveloper shall at all times keep the Authority provided with an up-to-date list of names and addresses of mortgagees and holders of building loan agreements from whom the Redeveloper has obtained loans for redevelopment operations.



Section 804: Mortgagee May Cure Breach of Redeveloper

In the event that the Redeveloper receives notice from the Authority of a failure or violation under Section 802 of this Agreement and such failure or violation is not cured by the Redeveloper ~~before the expiration~~ of the ~~ninety (90) day period~~ provided for in Section 802, the holders of record of building loan agreements and/or first mortgages in replacement thereof may cure any such failure upon giving written notice of their intention to do so to the Authority within thirty (30) days after the expiration of the ninety (90) day period.

Anything in this Agreement to the contrary notwithstanding, it is further expressly understood that should any improvements on The Property or portion thereof be covered by a mortgage permitted under this Agreement, the mortgagee thereunder shall not be in anywise obligated to complete the improvements contemplated in such mortgage transaction, nor shall it guarantee the completion of improvements as hereinbefore required of the Redeveloper, and further, that in case of any default in the construction of the improvements by the Redeveloper, the mortgagee shall have the option of completing or not completing the improvements or causing the same to be completed.

Notwithstanding the foregoing provisions of this Section, it is hereby understood and agreed that if the mortgagee shall become the owner of the Redeveloper's interest in The Property and improvements thereon and shall determine to perform any construction or development operations therein, or any part thereof, the mortgagee shall perform all such construction or development operations in accordance

with the provisions of this Agreement, except that the time limits set forth in Section 303 shall be extended by the Authority as may be reasonably necessary to complete any such construction or development operations. If such mortgagee shall assign or transfer such interest in The Property, the instrument by which the assignment or transfer is effected shall contain a covenant, which shall be a covenant running with the land, that the grantee or any successor in interest of such grantee, shall be obligated to perform and to complete the construction and development operations to be performed by the Redeveloper, or the successor in title and interest, as provided for by this Agreement except that, as to such grantee, the time limits stipulated in Section 303 may be extended as provided hereinbefore in this Section.



Section 805: Remedies for Other Breaches

It is understood by the parties hereto that in the event any party shall fail to comply with or violate any of the provisions of this Agreement, then the other party hereto may institute such actions and proceedings to compel specific performance and payment of all damages, expenses, and costs. Neither these remedies nor that class of remedies more particularly described in this Agreement shall be exclusive unless specifically so described, provided however that the remedies prescribed in Sections 801 or 802 for the defaults therein described shall be exclusive.

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 901: Obligations and Rights and Remedies Cumulative

The respective rights and remedies of the Authority and Redeveloper, whether provided by this Agreement or by law, shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude the exercise, at the same or different times of any other such rights or remedies.



Section 902: Finality of Approvals

Where, pursuant to this Agreement, any document of or proposed action by the Redeveloper is submitted by it to the Authority, and the Redeveloper has been notified in writing by the Authority that the same is approved or is satisfactory, such determination shall be conclusively deemed to be a final determination by the Authority with respect to such particular document or proposed action for which such approval or notice of satisfaction was given.

Section 903: How Agreement Affected by Provisions Being  
Held Invalid

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If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the requirements of applicable laws and of the Plan.



Section 904: Covenants to be Enforceable by Authority

Any covenant herein contained which is expressed to be a covenant running with the land shall be contained in any instrument of conveyance relating to The Property and shall, in any event and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by, the Authority against the Redeveloper (including its successors and assigns to or of The Property or any part thereof or any interest therein). In amplification, and not in restriction of the provisions hereof, it is intended and agreed that the Authority shall be deemed a beneficiary of such covenants both for and in its own right and also for the purposes of protecting the interests of the community and the other parties, public or private, in whose favor or for whose benefit such covenants have been provided, and such covenants shall be in force and effect, without regard to whether the Authority has at any time been, remains or is an owner of or in possession of any land to, or in favor of, which the covenants relate.

Section 905: Parties Barred From Interest in Project

No member of the Congress of the United States of America shall be admitted to any share or part hereof, or to any benefit to arise therefrom.



Section 906: Interest of Authority Members and Employees;  
Contingent Fees

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(a) No member, official or employee of the Authority shall have any personal interest, direct or indirect, in this Agreement or the Redeveloper, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his personal interest or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official or employee of the Authority shall be personally liable to the Redeveloper or any successor in interest in the event of any default or breach by the Authority or for any amount which may become due to the Redeveloper or to its successor or on any obligations under the terms of this Agreement.

(b) After the date hereinabove first written, the Redeveloper will not, without a prior finding by the Authority that such action is consistent with the public interest, employ in connection with its obligations under this Agreement, any person who has participated in the planning or execution of the Plan or related Project and who is named on any list which may be furnished by the Authority to the Redeveloper as having so participated, or permit any such person to directly or indirectly acquire an interest, in the Redeveloper or in The Property prior to the completion of the improvements thereon in accordance with this Agreement and the Plan.

(c) The Redeveloper covenants that he has not employed or retained any company or person (other than a full-time bona fide employee working for the Redeveloper) to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person (other than such an employee) any gift, contribution, fee, commission, percentage, or brokerage fee, contingent upon or resulting from the execution of this Agreement.

Section 907: Agreement Binding on Successors and Assigns

The provisions of this Agreement shall be binding upon and shall inure to the benefit of the respective successors and assigns of the parties hereto and to any subsequent grantees of The Property or any Parcel thereof.



Section 908: Waivers

Any right or remedy which the Authority or the Redeveloper may have under this Agreement, or any of its provisions, may be waived in writing by the Authority or by the Redeveloper, as the case may be, without execution of a new or supplementary Agreement, but any such waiver shall not affect any other rights not specifically waived.

Section 909: Amendments

This Agreement may be amended only by a written document, duly executed by the parties hereto, evidencing the mutual agreement of the parties hereto to such amendment.



Section 910: Approvals and Notices

Except as otherwise specifically provided in this Agreement, whenever under this Agreement approvals, authorizations, determinations, satisfactions, or waivers are required or permitted, such approvals, authorizations, determinations, satisfactions or waivers shall be effective and valid only when given in writing signed by a duly authorized officer of the Authority or Redeveloper, and sent registered or certified mail, postage prepaid to the principal office of the party to whom it is directed, which are as follows:

Redeveloper - 100 Hano Street, Boston 34, Massachusetts  
Authority - City Hall, Boston, Massachusetts

The parties shall promptly notify each other of any change of their respective addresses set forth above.

Notices and other communications to the parties and to mortgagees, insurers of mortgages, and holders of building loan agreements shall be sent registered or certified mail prepaid to the last known address of the party concerned.

Section 911: Matters to be Disregarded

The titles of the several articles and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

Section 912: All Agreements Contained in this Instrument

The terms and conditions of this Agreement, including the Exhibits hereto, shall constitute all of the terms and conditions that shall be required by the parties of one another without reference to any other instrument.



Section 913: Amendment of Plan

In the event a proposed modification or amendment of the Plan affects the rights of the Redeveloper as established under this Agreement, any such modification or amendment of the Plan must be consented to by the Redeveloper prior to becoming effective with respect to the Redeveloper.

Section 914: Obligations to Continue

Except as to obligations to be performed at or prior to the time of closing of the sale and conveyance of fee simple title to and delivery of possession of each Parcel, the provisions of this Agreement shall survive the time of closing and the sale and conveyance of fee simple title to and the delivery of possession of each Parcel to the Redeveloper.

Section 915: Excusable Delays

For the purposes of any of the provisions of this Agreement, neither the Authority nor the Redeveloper, as the case may be, shall be considered in breach of or default in its obligations with respect to the preparation of The Property for redevelopment, or the beginning and completion of construction of the improvements, or progress in respect thereto, in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, or of the public enemy, acts of the Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Authority with respect to the preparation of The Property for redevelopment or of the Redeveloper with respect to construction of the improvements, as the case may be, shall be extended for the period of the enforced delay: Provided, that the party seeking the benefit of the provisions of this Section shall, within ten (10) days after the beginning of any such enforced delay, have first notified the other party thereof in writing, and of the cause or causes thereof and requested an extension for the period of the enforced delay. In calculating the length of the delay, the Authority shall consider not only actual work stoppages but also any consequential delays resulting from such stoppages as well. In no event shall any financing difficulty be a cause for an extension hereunder.



Section 916: Arbitration of Disputes

Any disputes between the parties hereto, including disputes arising out of approvals or consents required from the Authority, shall, at the request of either party, be submitted to arbitration in the following manner: One arbitrator shall be chosen by the Redeveloper, one arbitrator shall be chosen by the Authority, and a third arbitrator shall be chosen by the other two. The dispute shall be settled by two-thirds vote of the panel of arbitrators. In the event that (1) the parties hereto mutually agree to same, or (2) the two initial arbitrators are unable to agree upon a third ( in which case the two initial arbitrators shall be discharged), the dispute shall be submitted to an arbitrator selected by the American Arbitration Association, whose decision shall be final.

Arbitration fees shall be paid by either or both parties as determined by the arbitration panel; or arbitrator (as the case may be).

IN WITNESS WHEREOF, on the                      day of

at Boston, Massachusetts, the parties hereto  
have caused this Agreement in five counterparts to be signed,  
sealed and delivered by their duly authorized officers,  
respectively.

BOSTON REDEVELOPMENT AUTHORITY

Signed, sealed and delivered  
in the presence of:

By \_\_\_\_\_  
Title \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

CENTER ASSOCIATES

\_\_\_\_\_  
\_\_\_\_\_

By \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Then personally appeared before me the above-named  
  
who executed the foregoing Agreement on behalf of Boston  
Redevelopment Authority and acknowledged the same to be his  
free act and deed.

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Notary Public  
My commission expires